

A bill for an act

relating to commerce; enacting a car buyers' bill of rights; requiring disclosures; regulating the sale of "certified" used motor vehicles; requiring a cancellation option on purchase of a used motor vehicle; amending Minnesota Statutes 2006, sections 53C.01, by adding subdivisions; 53C.08, by adding a subdivision; 325F.662, subdivision 10, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 53C.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

Subd. 12a. **Service contract.** "Service contract" means a motor vehicle service contract as defined in section 65B.29.

Sec. 2. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

Subd. 12b. **Surface protection product.** "Surface protection product" means the following products:

(1) undercoating;

(2) rustproofing;

(3) chemical or film paint sealant or protectant; or

(4) chemical sealant or stain inhibitor for carpet and fabric.

Sec. 3. Minnesota Statutes 2006, section 53C.01, is amended by adding a subdivision to read:

2.1 Subd. 12c. **Theft deterrent device.** "Theft deterrent device" means the following
2.2 devices:

- 2.3 (1) a vehicle alarm system;
- 2.4 (2) a window etch product;
- 2.5 (3) a body part marking product;
- 2.6 (4) a steering lock;
- 2.7 (5) a pedal or ignition lock; or
- 2.8 (6) a fuel or ignition kill switch.

2.9 Sec. 4. Minnesota Statutes 2006, section 53C.08, is amended by adding a subdivision
2.10 to read:

2.11 Subd. 1a. **Disclosures required.** Prior to the execution of a retail installment
2.12 contract, the seller shall provide to a buyer, and obtain the buyer's signature on, a written
2.13 disclosure that sets forth the following information:

2.14 (1) a description and the total price of all items sold in the following categories if
2.15 the contract includes a charge for the item:

- 2.16 (i) a service contract;
- 2.17 (ii) an insurance product;
- 2.18 (iii) a debt cancellation agreement;
- 2.19 (iv) a theft deterrent device; or
- 2.20 (v) a surface protection product;

2.21 (2) the amount that would be calculated under the contract as the regular installment
2.22 payment if charges for the items referenced under clause (1) are not included in the
2.23 contract;

2.24 (3) the amount that would be calculated under the contract as the regular installment
2.25 payment if charges for the items referenced under clause (1) are included in the contract;
2.26 and

2.27 (4) the disclosures required under this subdivision must be in at least ten-point type
2.28 and must be contained in a single document that is separate from the retail installment
2.29 contract and any other vehicle purchase documents.

2.30 Sec. 5. **[53C.083] CONSUMER REPORT DISCLOSURE.**

2.31 (a) When a consumer report from a consumer reporting agency has been obtained
2.32 by a lender or retail seller for use in connection with an application for credit initiated
2.33 by a buyer for the purchase or lease of a motor vehicle:

(1) the lender shall provide to the retail seller, upon written request of the buyer, and unless required by federal law to provide the adverse action notice, prior to the sale or lease of the motor vehicle, the name of each credit reporting agency providing a consumer report that was obtained and used by the lender;

(2) the retail seller shall provide, prior to the sale or lease of the motor vehicle the following notice in at least ten-point boldface type on a document separate from the sale or lease contract, which must also include the name, address, and telephone number of four principal consumer reporting agencies:

"NOTICE TO MOTOR VEHICLE CREDIT APPLICANT

A consumer report from a consumer reporting agency was used in connection with your application to finance the acquisition of a motor vehicle. Consumer reports include data about your credit history and payment patterns. Consumer reports are important because they are used in determining whether to extend credit and may be used to determine the annual percentage rate you may be offered.

If you have questions about your consumer report, you are entitled to know the name, address, and telephone number of the consumer reporting agency that provided the consumer report used to evaluate your loan application. You may ask the dealer for this information. You may then contact the consumer reporting agency at the address and telephone number provided. You are entitled under federal law to a free copy annually of your consumer report by calling 1-877-322-8228 or visiting annualcreditreport.com"; and

(3) upon written request of the buyer, the retail seller shall obtain from the lender the consumer reporting agency information specified in clause (1) and shall provide that information to the buyer.

(b) This section does not require a dealer to provide more than one disclosure for each purchase or lease transaction. For purposes of this section, "consumer report" and "consumer reporting agency" have the meanings given in section 13C.001.

Sec. 6. Minnesota Statutes 2006, section 325F.662, is amended by adding a subdivision to read:

Subd. 8a. **Certified motor vehicle.** (a) It is unlawful for a dealer to advertise for sale or sell a used motor vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used motor vehicle that implies the vehicle has been certified to meet the terms of a used motor vehicle certification program if any of the following apply:

(1) the dealer knows or should know that the odometer on the vehicle does not indicate actual mileage, has been rolled back or otherwise altered to show fewer miles, or has been replaced with an odometer showing fewer miles than actually driven;

(2) the dealer knows or should know that the vehicle was reacquired by the vehicle's manufacturer or a dealer pursuant to state or federal warranty laws;

(3) the dealer knows or should know that the title to the vehicle has been inscribed with the notation "damaged," "flood," "junk," "lemon law buyback," "manufacturer repurchase," "nonrepairable," "rebuilt," "reconditioned," "salvage," or similar title designation required by this state or another state;

(4) the dealer knows or should know that the vehicle has sustained damage in an impact, fire, or flood, that substantially impairs the use or safety of the vehicle;

(5) the dealer knows or should know that the vehicle has sustained frame damage;

(6) prior to sale, the dealer fails to provide the buyer with a completed inspection report indicating all the components inspected;

(7) the dealer disclaims any warranties of merchantability on the vehicle; or

(8) the vehicle is sold "AS IS".

(b) This section does not abrogate or limit any disclosure obligation imposed by any other law.

Sec. 7. Minnesota Statutes 2006, section 325F.662, is amended by adding a subdivision to read:

Subd. 8b. **Contract cancellation option.** (a) A dealer shall not sell a used motor vehicle to a consumer without granting the consumer a contract cancellation option that allows the consumer to return the vehicle without cause and without cost, except for a restocking fee as permitted by this subdivision. This subdivision does not apply to a used motor vehicle having a purchase price of \$40,000 or more.

(b) The contract cancellation option must be contained in a document separate from the retail installment contract or other vehicle purchase agreement and must contain, at a minimum, the following:

(1) the name of the dealer and the consumer;

(2) a description and the vehicle identification number of the vehicle purchased;

(3) a statement specifying the time within which the consumer must exercise the right to cancel the purchase under the contract cancellation option and return the vehicle to the dealer. The dealer shall not specify a time that is earlier than the dealer's close of business on the second day following the day on which the vehicle was originally delivered to the consumer by the dealer;

(4) a statement that clearly and conspicuously specifies the dollar amount of any restocking fee the buyer must pay to the dealer to exercise the right to cancel the purchase under the contract cancellation option. The restocking fee must not exceed \$125 if the vehicle's cash price is \$10,000 or less, \$250 if the vehicle's cash price is less than \$15,000 but greater than \$10,000, \$375 if the vehicle's cash price is less than \$20,000 but greater than or equal to \$15,000, and \$500 if the vehicle's cash price is \$20,000 or greater;

(5) a statement specifying the maximum number of miles that the vehicle may be driven after its original delivery by the dealer to the consumer to remain eligible for cancellation under the contract cancellation option. A dealer shall not specify fewer than 250 miles in the contract cancellation option;

(6) a statement that the contract cancellation option gives the consumer the right to cancel the purchase and obtain a full refund; and that the right to cancel will apply only if, within the time specified in the contract cancellation option, the following are personally delivered to the dealer by the consumer:

(i) a written notice exercising the right to cancel the purchase signed by the consumer;

(ii) any restocking fee specified in the contract cancellation option;

(iii) the original contract cancellation option document and vehicle purchase contract and related documents, if the dealer gave those original documents to the consumer;

(iv) all original vehicle titling and registration documents, if the dealer gave those original documents to the consumer;

(v) an amount in certified funds to reimburse the dealer for its payments on the buyer's behalf to discharge a lien on a vehicle left by the buyer as a downpayment or trade-in. If the dealer has sold or otherwise transferred title to the motor vehicle that was left as a downpayment or trade-in, the reimbursement amount owed to the dealer is only the amount that the dealer's payment to the lienholder exceeds the value of the vehicle as indicated on the sales contract or purchase order; and

(vi) the vehicle, free of all liens and encumbrances other than any lien or encumbrance created by or incident to the sales contract, any loan arranged by the dealer or any purchase money loan obtained by the consumer from a third party, and in the same condition as when it was delivered by the dealer to the consumer, reasonable wear and tear and any defect or mechanical problem that manifests or becomes evident after delivery that was not caused by the buyer excepted, and which must not have been driven beyond the mileage limit specified in the contract cancellation option. The agreement may also provide that the consumer will execute documents reasonably necessary to effectuate the cancellation and refund and as reasonably required to comply with applicable law; and

(7) at the bottom of the contract cancellation option document, a statement that may be signed by the consumer to indicate the consumer's election to exercise the right to cancel the purchase under the terms of the contract cancellation option, and the last date and time by which the option to cancel may be exercised, followed by a line for the consumer's signature. A particular form of statement is not required, but the following statement is sufficient: "By signing below, I elect to exercise my right to cancel the purchase of the vehicle described in this agreement." The consumer's delivery of the contract cancellation option document to the dealer with the consumer's signature following this statement shall constitute sufficient written notice exercising the right to cancel the purchase. The dealer shall provide the consumer with the statement required by this paragraph in duplicate to enable the consumer to return the signed contract cancellation document and retain a copy of the contract cancellation document.

(c)(1) No later than the third day following the day on which the consumer exercises the right to cancel the purchase in compliance with the contract cancellation option, the dealer shall cancel the contract and provide the consumer with a full refund in person or by United States first class mail, postage prepaid; and

(2) the dealer shall return to the consumer, no later than three days after the consumer exercises the right to cancel the purchase, any motor vehicle the consumer left with the dealer as a downpayment or trade-in. If the dealer has sold or otherwise transferred title to the motor vehicle that was left as a downpayment or trade-in, the full refund described in clause (1) shall be the value of the motor vehicle left as a downpayment or trade-in, as stated in the sale contract or purchase order less any amount paid by the dealer to a lienholder on the buyer's behalf. The dealer shall provide the full refund in the form of cash, a negotiable instrument as defined in section 336.3-104, or draft conditioned on the verification of an instrument accepted by the dealer as part of the buyer's down payment.

(d) If the dealer received a portion of the purchase price by credit card, or other third-party payer on the consumer's account, the dealer must refund that portion of the purchase price to the credit card issuer or third-party payer for credit to the consumer's account.

(e) If the dealer received a portion of the purchase price by check or other negotiable instrument as defined in section 336.3-104, the dealer need not return the amount of the payment until after the check or negotiable instrument is finally paid as provided in section 336.4-213.

(f) A dealer whose cancellation offer exceeds the requirements contained in subdivision 8b, and whose cancellation offer in the contract of sale provides a purchase

7.1 cancellation agreement disclosing the terms of that cancellation offer shall be deemed to
7.2 have complied with this section.

7.3 (g) Notwithstanding paragraph (a), a dealer is not required to grant a contract
7.4 cancellation option to an individual who exercised the individual's right to cancel the
7.5 purchase of a vehicle from the dealer pursuant to a contract cancellation option during the
7.6 immediately preceding 30 days or to an individual that has exercised a purchase option on
7.7 a vehicle the individual has previously leased. A dealer is not required to give notice to a
7.8 subsequent consumer of the return of a vehicle under this section. This subdivision does
7.9 not abrogate or limit any disclosure obligation imposed by any other law.

7.10 (h) This subdivision does not affect or alter the legal rights, duties, obligations, or
7.11 liabilities of the consumer, the dealer, or the dealer's agents or assigns, that would exist in
7.12 the absence of a contract cancellation option. Notwithstanding the existence of a contract
7.13 cancellation option and the fact that the dealer may retain title to the vehicle, the consumer
7.14 is deemed the owner of the vehicle for purposes of sections 65B.41 to 65B.71, and 169.09,
7.15 subdivision 5a, when the consumer takes delivery until the vehicle is returned pursuant
7.16 to a contract cancellation option.

7.17 Sec. 8. Minnesota Statutes 2006, section 325F.662, subdivision 10, is amended to read:

7.18 Subd. 10. **Limitation on actions.** A private civil action brought by a consumer
7.19 under this section with respect to a warranty claim must be commenced within one year
7.20 of the expiration of the express warranty.

7.21 Sec. 9. **EFFECTIVE DATE.**

7.22 This act is effective January 1, 2008.